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Common Carrier Bureau  
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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

Public Notice

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Common Carrier Bureau Seeks Comment on  
New York Department of Public Service Petition for  
Additional Authority To Implement Number  
Conservation Measures

NSD File No. L-99-21  
DA 99-462

Common Carrier Bureau Seeks Comment on  
Massachusetts Department of Telecommunications and  
Energy Request for Additional Authority To Implement  
Various Area Code Conservation Methods in the 508,  
617, 781, and 978 Area Codes

NSD File No. L-99-19  
DA 99-461

*CC DOCKET: 96-98*

**COMMENTS OF THE PERSONAL  
COMMUNICATIONS INDUSTRY ASSOCIATION**

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## TABLE OF CONTENTS

I. INTRODUCTION AND SUMMARY .....	2
II. WHILE NEW YORK AND MASSACHUSETTS RAISE A NUMBER OF VALID CONCERNS, THE COMMISSION SHOULD CONTINUE TO MAINTAIN FEDERAL CONTROL OVER A UNIFIED SYSTEM OF NUMBERING ADMINISTRATION IN THE UNITED STATES .....	4
III. THE LNP-BASED CONSERVATION METHODS PROPOSED BY THE PETITIONERS, IF PERMITTED, MUST BE IMPLEMENTED PURSUANT TO NATIONWIDE STANDARDS, AND NON-LNP CAPABLE CARRIERS MUST HAVE ALTERNATIVE SOURCES OF NUMBERS .....	7
IV. CONCLUSION.....	11

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**COMMENTS OF THE PERSONAL  
COMMUNICATIONS INDUSTRY ASSOCIATION**

The Personal Communications Industry Association ("PCIA"),<sup>1</sup> by its attorneys, hereby respectfully submits its comments on the Commission's *Public Notices* in the above-captioned proceedings.<sup>2</sup> PCIA, as a major wireless trade association, has consistently supported a strong

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<sup>1</sup> PCIA is an international trade association established to represent the interests of the commercial and private mobile radio service communications industries and the fixed broadband wireless industry. PCIA's Federation of Councils includes: the Paging and Messaging Alliance, the PCS Alliance, the Site Owners and Managers Association, the Association of Wireless Communications Engineers and Technicians, the Private Systems Users Alliance, the Mobile Wireless Communications Alliance, and the Wireless Broadband Alliance. As an FCC-appointed frequency coordinator for the Industrial/Business Pool frequencies below 512 MHz, the 800 MHz and 900 MHz Business Pools, the 800 MHz General Category frequencies for Business Eligibles and conventional SMR systems, and the 929 MHz paging frequencies, PCIA represents and serves the interests of tens of thousands of FCC licensees.

<sup>2</sup> Public Notice, *Common Carrier Bureau Seeks Comment on New York Department of Public Service Petition for Additional Authority to Implement Number Conservation Measures* NSD File No. L-99-21, DA 99-462 (March 5, 1999); Public Notice, *Common Carrier Bureau Seeks Comment on Massachusetts Department of Telecommunications and Energy Request for*  
(Continued...)

federal role in supervising a unified, nationwide numbering system that ensures that all carriers are provided with an adequate supply of telephone numbers. Because the New York and Massachusetts petitions will compromise this unified numbering scheme, and might discriminate against certain carriers, they should be denied.

## **I. INTRODUCTION AND SUMMARY**

In mid-February, both the New York State Department of Public Service ("NY DPS") and the Massachusetts Department of Telecommunications and Energy ("Massachusetts DTE", collectively the "Petitioners") filed individual petitions with the Commission requesting additional authority to implement a variety of numbering conservation methods. The NY DPS requested authority to: (1) implement mandatory 1,000 block pooling; (2) explore the use of individual telephone number ("ITN") pooling; (3) begin unassigned number porting; and (4) employ certain number assignment standards including enforcement of "fill rates," number reclamation, utilization surveys, and code rationing.<sup>3</sup> The Massachusetts DTE seeks the authority to implement the same types of conservation measures sought by the NY DPS, including: (1) implementing Extended Local Calling Areas ("ELCAs"); (2) using Inconsistent Rate Centers ("IRCs"); and (3) maintaining rationing after the implementation of area code relief

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(...Continued)

*Additional Authority to Implement Various Area Code Conservation Methods in the 508, 617, 781, and 978 Area Codes*, NSD File No. L-99-19, DA 99-461 (March 5, 1999).

<sup>3</sup> New York State Department of Public Service Petition for Additional Delegated Authority To Implement Number Conservation Measures (dated Feb. 19, 1999) ("*NY DPS Petition*").

plans.<sup>4</sup> The Petitioners claim that such conservation measures are necessary due to the increasing demand for telephone numbers, which is leading to the rapid exhaust of each state's Numbering Plan Areas ("NPAs").<sup>5</sup>

While the NY DPS and the Massachusetts DTE raise a number of valid concerns, it is vital that the Commission continue to maintain federal control to ensure a unified system of numbering administration that does not discriminate against any class of carriers. Although some elements of each state's proposal are similar, there are still significant differences between the plans that would require carriers to obtain numbering resources in different ways in these two states. Further, the Petitioners have requested the flexibility to pick and choose from the various conservation measures they listed in their petitions. As a result, carriers might be subject to inconsistent state-by-state requirements in the administration of numbering systems. Finally, it is vital that the Commission ensure that the proposed solutions do not discriminate against any segment of the industry. For example, some of the measures proposed by the two state agencies—including number pooling—would necessarily discriminate against certain carriers because they rely upon the ability to implement local number portability ("LNP").

PCIA firmly believes that the Commission must act to protect and preserve the essential element of the North American Numbering Plan ("NANP")—its nationwide consistency. If, however, the FCC does decide to give the NY DPS and/or the Massachusetts DTE the option to deviate from the established procedures for assigning numbering resources, then it must require

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<sup>4</sup> Massachusetts Department of Telecommunications and Energy's Petition for Waiver of Section 52.19 To Implement Various Area Code Conservation Methods in the 508, 617, 781, and 978 Area Codes (dated Feb. 17, 1999) ("*Mass. DTE Petition*").

<sup>5</sup> *Mass. DTE Petition* at 4-5; *NY DPS Petition* at 3.

that these changes be implemented pursuant to nationwide standards. In addition, no state should be permitted to unfairly hinder any carrier's ability to obtain numbering resources. Thus, any number conservation program that relies on LNP must provide non-LNP capable carriers access, on a non-discriminatory basis, to a source of numbers.

**II. WHILE NEW YORK AND MASSACHUSETTS RAISE A NUMBER OF VALID CONCERNS, THE COMMISSION SHOULD CONTINUE TO MAINTAIN FEDERAL CONTROL OVER A UNIFIED SYSTEM OF NUMBERING ADMINISTRATION IN THE UNITED STATES**

Both Massachusetts and New York raise a number of valid concerns regarding the rapidity with which NPAs are being exhausted. For instance, the Massachusetts DTE states that it is "faced with creating four new area codes within just two years of creating two [new] area codes" due to the rapid use of numbers by carriers.<sup>6</sup> The NY DPS cites the "[a]dvances in telecommunications services, as well as increased competition in the local exchange market" as the factors that have led to "an explosion in the demand for numbers" that, in turn, has "escalat[ed] the rate of exhaust of area codes."<sup>7</sup> The creation of new area codes is not without costs. As the NY DPS points out, "[t]he creation of new area codes ... causes customer confusion and dislocation" and "imposes additional costs on carriers because they must modify network equipment as well as inform and educate callers regarding number changes and new dialing patterns."<sup>8</sup>

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<sup>6</sup> *Mass. DTE Petition* at 4-5.

<sup>7</sup> *NY DPS Petition* at 3.

<sup>8</sup> *NY DPS Petition* at 3-4.

While the problems cited by New York and Massachusetts are real, the Commission must take steps to ensure that the proposed number conservation measures do not compromise other, more important, aspects of the NANP. In particular, an individualized state approach will denigrate the unified nature of the national telecommunications infrastructure, contrary to the intent of Congress in amending the Communications Act in 1996.

In the 1996 Telecommunications Act, Congress gave the Commission “exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States.”<sup>9</sup> The Commission noted that Congress acted in this manner in recognition that “ensuring fair and impartial access to numbering resources is a critical component of encouraging a robustly competitive telecommunications market in the United States.”<sup>10</sup> PCIA has consistently argued that the Commission should exercise this grant of jurisdiction because a national numbering policy is essential to the efficient provision of telecommunications service.<sup>11</sup> In fact, a nationwide policy is particularly important to the wireless market because such carriers operate without regard to state boundaries.

The Commission, in its *Pennsylvania Order*, explained why national numbering policies are necessary:

A nationwide, uniform system of numbering is essential to the efficient delivery of telecommunications services in the United

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<sup>9</sup> 47 U.S.C. § 251(e)(1).

<sup>10</sup> *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 19392, 19508 (1996) (“*Local Competition Second Report and Order*”).

<sup>11</sup> See, e.g., Comments of PCIA on FCC Public Notice, “Common Carrier Bureau Seeks Comment On North American Numbering Council Letter Seeking Clarification of the Term ‘Technology Neutral,’” DA 97-2234 (Oct. 29, 1997).

States ... Substantial social and economic costs would result if the uniformity of the North American Numbering Plan were compromised by states imposing varying and inconsistent regimes for number conservation and area code relief. Such inconsistency could interfere with, or even prevent, the routing of calls in the United States. The lack of uniformity also could hamper the industry's efforts to forecast and plan properly for exhaust of the North American Numbering Plan, and therefore ultimately could accelerate unnecessarily the introduction of a new nationwide numbering plan. Introduction of a new plan would mean costly network upgrades to accommodate a new dialing scheme that would be confusing to consumers.<sup>12</sup>

Therefore, the Commission admonished all parties to "work together to bring about as quickly as possible national methods to conserve and promote efficient use of numbers *that do not undermine that uniform system of numbering.*"<sup>13</sup>

Against this background, Massachusetts and New York have both proposed some number conservation methods, which, if implemented subject to national guidelines, would serve the public interest. PCIA, in its comments on the *NANC Report*, has endorsed certain of the conservation measures proposed by the Petitioners, including: (1) improved methodologies for collecting data on number usage; (2) Extended Local Calling Areas ("ELCAs"); (3) Inconsistent Rate Centers ("IRCs"); and (4) elimination of certain protected central office codes.<sup>14</sup> PCIA supports these specific methods of managing numbering resources because they optimize the

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<sup>12</sup> Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, NSD File No. L-97-42, *Memorandum Opinion and Order, and Order on Reconsideration*, FCC 98-224, at ¶ 21 (rel. Sept. 28, 1998) ("*Pennsylvania Order*").

<sup>13</sup> *Pennsylvania Order*, ¶ 21.

<sup>14</sup> See PCIA Comments on Public Notice, *Common Carrier Bureau Seeks Comment on North American Numbering Council Report Concerning Telephone Number Pooling and Other Optimization Measures*, NSD File No. L-98-134 (filed Dec. 21, 1998).



utilization of telephone numbers without discriminating against any particular segment of the telecommunications industry.

While PCIA supports the use of these number conservation methods, the FCC should not abandon its role as the Congressionally-sanctioned arbiter of the nationwide numbering system. Thus, in the event that the Commission allows the states to act, it must develop some set of national standards or unifying elements so that carriers do not eventually face a myriad of different numbering rules, regulations and standards. Further, the Commission must not allow discrimination to creep into the allocation of numbers. Each of the aforementioned numbering solutions has the potential to be misused and exploited in an anti-competitive manner. For example, IRCs could be used by competitive local exchange carriers to obtain an unfair competitive advantage by allowing them to create their own cache of telephone numbers. In sum, if any of these measures are implemented, PCIA believes that the federal government must exert a strong and unifying role in such implementation and ensure that numbering resources are being conserved without undermining competitive parity.

**III. THE LNP-BASED CONSERVATION METHODS PROPOSED BY THE PETITIONERS, IF PERMITTED, MUST BE IMPLEMENTED PURSUANT TO NATIONWIDE STANDARDS, AND NON-LNP CAPABLE CARRIERS MUST HAVE ALTERNATIVE SOURCES OF NUMBERS**

As noted above, national standards for the allocation of numbering resources are essential to maintaining an efficient and competitively neutral telecommunications industry. Further, telephone numbers are one of the essential ingredients of a well functioning telecommunications marketplace, without which no carrier can provide service to its customers. Full and fair access to telephone numbers is thus critical to the ability of carriers to satisfy consumers and to serve their

customers' needs. This is particularly true in the wireless industry, where there is substantial continued demand for new telephone numbers, and new carriers must compete against incumbent providers with already large customer bases. Without non-discriminatory access to telephone numbers, wireless carriers will be handicapped in their ability to contract with new subscribers and service the needs of existing subscribers. Under such circumstances, wireless carriers will quickly feel the adverse economic effects of the inadequate access to numbering resources and customers will lose a measure of competition within the marketplace.

The Commission has recognized the competitive importance of the unfettered availability of telephone numbers. Specifically, the *Pennsylvania Order* mandates that NPA relief plans must "facilitate entry into the telecommunications marketplace by making numbering resources available on an efficient and timely basis to carriers."<sup>15</sup> The *Pennsylvania Order* is similarly direct when it comes to prohibiting discrimination against wireless carriers in the allocation of numbering resources by limiting the availability of new numbers to LNP-capable carriers: "[T]he use of number pooling and transparent overlays unduly disfavored wireless and non-[LNP] capable carriers because it did not provide adequate assurances that those carriers would have access to numbering resources."<sup>16</sup>

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<sup>15</sup> *Pennsylvania Order*, ¶ 37; see also *Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois*, 10 FCC Rcd 4596, ¶ 19 (1995) ("The ready availability, and use, of numbering resources by communications services providers is essential if the public is to receive the communications services it wants and needs."); *Local Competition Second Report and Order*, ¶ 291 ("[F]ederal numbering guidelines [are] designed to ensure the fair and timely availability of numbering resources to all telecommunications carriers.").

<sup>16</sup> *Pennsylvania Order*, ¶ 40.

Thus, the Commission's precedent clearly states that any numbering optimization measures must ensure that all carriers, regardless of the technology they use, have equal and unfettered access to the telephone numbers they need to meet the expanding needs of new and existing subscribers. Against this background, if the Commission chooses to implement an optimization measure that relies on LNP-based optimization,<sup>17</sup> it must ensure that non-LNP capable carriers have access to alternative sources of telephone numbers.

Even beyond these competitive concerns, however, PCIA has a number of practical concerns involving LNP-based solutions. For one, while LNP-based solutions may offer more flexibility, it is important to note that a large number of carriers—both wireline and wireless—are not currently required to be LNP-capable, and may not ever be required to implement this capability.<sup>18</sup> This is particularly true in the areas where the percentage of telephone number usage is low, such as rural areas. Therefore, the Commission should be aware that these LNP-based solutions might not conserve as many telephone numbers as it might appear upon first analysis.

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<sup>17</sup> Such LNP-based measures include individual telephone number pooling ("ITN"), thousand number block pooling, unassigned number pooling ("UNP"), and location portability. Both New York and Massachusetts request authority to implement these optimization measures.

<sup>18</sup> Broadband CMRS carriers are not required to implement local number portability in the top 100 MSAs until November 24, 2002. *CTIA's Petition for Forbearance from Commercial Mobile Radio Service Number Portability Obligations* (Memorandum Opinion and Order), WT Docket No. 98-226, CC Docket No. 95-116 (Feb. 9, 1999). In addition, LECs are only required to implement LNP upon a *bona fide* request from another carrier, and LECs "with fewer than 2 percent of the Nation's subscriber lines" can petition a state commission to modify or suspend the number portability requirements. Telephone Number Portability, CC Docket No. 95-116, *Third Report and Order*, FCC 98-82, at ¶ 17 & n.63 (rel. May 12, 1998) (quoting 47 U.S.C. § 251(f)(2)).

Further, each of the particular solutions has their own specific problem. For example, as pointed out in the *NANC Report*,<sup>19</sup> UNP has a number of specific disadvantages. First, UNP, like ITN, seems to encourage the "mining" of numbers, as one carrier can take another carrier's desirable numbers without the other carrier's consent. Second, UNP will punish those service providers that have efficiently managed their numbering resources, while those carriers that have not done so will be able to continue their mismanagement and still get telephone numbers, even in a jeopardy situation. Finally, because the effectiveness of unassigned number porting is based directly on the number of service providers participating in the scheme, if only a limited number of providers choose to take part in any given area, this method will only have a minimal impact on number exhaust.

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<sup>19</sup> *Number Resource Optimization Working Group Modified Report to the North American Numbering Council on Number Optimization Methods* (Oct. 21, 1998) ("*NANC Report*") at 129-130.

#### IV. CONCLUSION

PCIA endorses the efforts to ensure the more efficient allocation of numbering resources within the North American Numbering Plan, with the goal of preventing premature and unnecessary NPA exhaust. Such conservation measures will help to ensure that all carriers have an adequate supply of telephone numbers, which will encourage competition in the telecommunications industry. In its efforts to optimize number utilization, however, the Commission must make sure that state plans to conserve numbers do not upset the unified structure of the NANP and that those measures are fair to all segments of the telecommunications industry.

Respectfully submitted,

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